



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:

Mark H. ETZEL et al.

Conf: 2566

Serial No.:

09/120,763

Group: 2131

Filed:

.

July 22, 1998

Examiner: James Seal

For:

METHODS AND APPARATUS FOR ENHANCED CMEA INCLUDING A

CMEA ITERATION PRECEDED AND FOLLOWED BY

TRANSFORMATIONS AND EMPLOYING AN INVOLUNTARY LOOKUP

#### PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

**Assistant Commissioner for Patents** 

RECEIVED

April 23, 2003

Washington, D.C. 20231

APR 3 0 2003

Dear Sir:

Technology Center 2100

In response to the Decision on Petition dated February 24, 2003, Applicants hereby respectfully re-petition under the provisions of 37 C.F.R. 1.181 and M.P.E.P. §711.03(c) for decision to withdraw the holding of abandonment.

The Decision on Petition indicates that until March 6, 2002 the correspondence address of record is Peter W. Priest, 529 Dogwood Drive, Chapel Hill, NC 27516. However, as indicated by the Declaration of Richard Anderson attached as Exhibit I and the supporting evidence in Exhibits A and B to Mr. Anderson's Declaration, a change of correspondence address was filed by the firm of Birch, Stewart, Kolasch & Birch on January 25, 2001. The change of correspondence address changed the correspondence address to the Birch, Stewart firm. Accordingly, the Office Action dated June 28, 2001 should have been mailed to the Birch, Stewart firm.

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The fact that the Office Action dated June 28, 2001 was never received in the offices of Birch, Stewart, Kolasch & Birch is evidenced by Exhibits C and D attached to Mr. Anderson's Declaration (see Exhibit I). Exhibit C is a copy of the computer-generated daily docket sheet of the Birch, Stewart firm for the date of September 28, 2001 (the due date for replying to the Office Action), containing entries made by their Docketing Personnel of due dates in response to United States Patent and Trademark Office Actions. As stated by Mr. Anderson, it was the policy of the Birch Stewart firm to docket all due dates for Office Actions received from United States Patent and Trademark Office into the computer docketing system. As certified by Mr. Anderson, he has reviewed the computer-generated daily docket sheets for the due date of September 28, 2001 and did not locate an entry which corresponds to Attorney Docket No. 29250-262P.

**Exhibit D** is a copy of the front page of the file jacket of Serial No. 09/120,763 (which corresponds to the Birch, Stewart Attorney Docket No. 2925-262P). As indicated by in Mr. Anderson's Declaration it was the policy in the Birch Stewart firm to record all information regarding Office Actions and responses on the front page of the file jacket. As certified by Mr. Anderson, there is no entry for the Office Action dated June 28, 2001 on the front page of the file jacket of the above-referenced application.

As to the timeliness of the original Petition filed on August 23, 2002, the time taken to prepare the petition was the result of having to obtain evidence in support of the Petition from more than one law firm.

In view of the above-described facts, it is respectfully submitted that the abandonment of the present application was unavoidable and due solely to problems with the mailing of the June

Appl. No. 09/120,763

28, 2001 Office Action. Accordingly, this petition is being timely filed for the purpose of

petitioning withdrawal of the abandonment in view of the above-stated facts, and applicants

believe that no petition fee is necessary in connection with this petition. In the event that the

petition fee is deemed necessary by the United States Patent and Trademark Office, it is

respectfully requested that the fee of \$130.00 as set forth in 35 U.S.C. §1.17(h)(1) be charged to

Deposit Account No. 08-0750.

In the event that any matters remain at issue in the application, the Petitions Examiner is

invited to contact the undersigned at (703) 668-8000 in the Northern Virginia area, for the

purpose of a telephonic interview.

Respectfully submitted,

HARNESS, DICKEY AND PIERCE P.L.C.

Reg. No. 35,416

P.O. Box 8910

Reston, VA 20195

GDY:jcp

Attachments: Exhibit I

3

#### EXHIBIT I



PATENT 29250-000262

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:

Mark H. ETZEL et al.

Conf: 2566

Serial No.:

09/120,763

Group: 2131

Filed:

July 22, 1998

Examiner: James Seal

For:

METHODS AND APPARATUS FOR ENHANCED CMEA INCLUDING A

CMEA ITERATION PRECEDED AND FOLLOWED BY

TRANSFORMATIONS AND EMPLOYING AN INVOLUNTARY LOOKUP

#### DECLARATION IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Assistant Commissioner for Patents Washington, D.C. 20231

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Dear Sir:

APR 3 0 2003

**Technology Center 2100** 

The undersigned hereby certifies and states that:

- 1) U.S. Application No. 09/120,763 was given Attorney Docket No. 2925-262P at the offices of Birch, Stewart, Kolasch & Birch.
- 2) The Office Action dated June 28, 2001 should have been received by the offices of Birch Stewart Kolasch & Birch for the application referenced in Item 1) as evidenced by Exhibits A-B attached hereto.

Exhibit A is a copy of a change of correspondence address filed January 25, 2001, changing the correspondence address in the above-reference application to the firm of Birch, Stewart, Kolasch & Birch.

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Exhibit B is a copy of the date stamped post card showing that the change of correspondence address was received by the U.S. Patent and Trademark Office on January 25, 2001.

3) The Office Action dated June 28, 2001 was not received by the offices of Birch, Stewart Kolasch & Birch for the application referenced in Item 1) as evidenced by Exhibits C-D attached hereto.

Exhibit C is a copy of the computer-generated daily docket sheet of the Birch Stewart firm for the date of September 28, 2001 (the due date for replying to the Office Action), containing entries made by our Docketing Personnel of due dates in response to United States Patent and Trademark Office Actions. It is and was the policy of the Birch Stewart firm to docket all due dates for Office Actions received from United States Patent and Trademark Office into the computer docketing system.

Exhibit D is a copy of the front page of the Birch, Stewart file jacket of Serial No. 09/120,763 (which corresponds to the Birch, Stewart Attorney Docket No. 2925-262P). It is and was the policy in the Birch, Stewart firm to record all information regarding Office Actions and responses on the front page of the file jacket.

4) I certify that I reviewed the computer-generated daily docket sheet in Exhibit C and did not locate an entry which corresponds to Attorney Docket No. 2925-262P.

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5) I certify that I have reviewed the copy of the front page of the file jacket in Exhibit D and have found no entry for the Office Action dated June 28, 2001.

Respectfully submitted,

Birch, Stewart, Kolasch & Birch L.L.P.

D. Richard Anderson Reg. No. 40,439

8110 Gatehouse Rd. Falls Church, VA 22041

Attachments: Exhibits A-D

#### EXHIBIT A





BOX ISSUE FEE PATENT .2925-0262P

#### IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant:

ETZEL et al.

Appl. No.:

09/120,763

Group:

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Filed:

July 22, 1998 Examiner: J. SEAL

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EMPLOYING AN INVOLUNTARY LOOKUP

Technology Center 2100

#### CHANGE OF ATTORNEYS' ADDRESS

Assistant Commissioner for Patents Washington, DC 20231

January 25, 2001

Sir:

GDY/tmd

2925-0262P

Please change the address for all future mail to the undersigned to:

> Birch, Stewart, Kolasch & Birch, LLP P.O. Box 747 Falls Church, Virginia 22040-0747

Please direct all telephone calls to the undersigned as follows:

Βv

(703) 205-8000

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

P.O. Box 747 22040-0747 Falls Church, VA

(703) 205-8000

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#### EXHIBIT B

New Application with Transmittal Letter

Filing Under 37 CFR 1.53(b) Filing Under 37 CFR 1.53(d) (CPA) O Filing Under 37 CFR 1.114(RCE) Specification Consisting of: \_ Combined Declaration & Power of Atlog

☐ Assignment / Cover Letter Letter to Official Draftsman

Amendment\_

Response.

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Receipt is hereby acknowledged of the papers filed as indicated in connection with the above identified case. COMMISSIONER OF PATENTS AND TRADEMARKS

Priority Document(s) / Cover Letter, No. Doc.

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#### EXHIBIT C

## FOR INTERNAL BSKB USE ONLY MASTER DOCKET

From 09/28/01 to 09/28/01

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#### EXHIBIT D

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EXHIBIT I: ==

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